

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America, Plaintiff, v. Dennis E. Hecker, Defendant.	Case No. 0:10-CR-32 (01) JNE/SRN DECLARATION OF PETER S. JOHNSON IN SUPPORT OF DEFENDANT'S MOTION FOR DISCOVERY AND INSPECTION
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1. I am employed by Defendant's counsel and am offering this declaration in support of Defendant's motion for discovery and inspection.

2. I have personal knowledge that Exhibit A attached hereto is a true and correct photocopy of correspondence from counsel of the government to Defendant's attorney.

I declare under penalty of perjury under the law of the United State of America, particularly U.S.C. § 1746, that the foregoing is true and correct and that this Declaration was executed on the 10th day of June, 2010 in Minneapolis, Minnesota.

/s/ Peter S. Johnson

Peter S. Johnson

Dated: June 10, 2010

CHESTNUT CAMBRONNE PA

/s/ Brian N. Toder

Brian N. Toder, #17869X
17 Washington Avenue North
Suite 300
Minneapolis, MN 55401

(612) 339-7300

Fax (612) 336-2940

Barbara J. May, #129689

2780 N. Snelling Ave.

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Roseville, MN 55113

(651) 486-8887

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ATTORNEYS FOR DEFENDANT

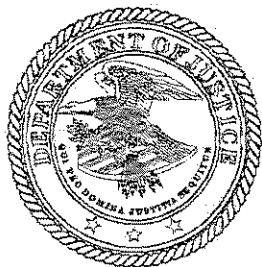
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U.S. DEPARTMENT OF JUSTICE
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DISTRICT OF MINNESOTA

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FAX TRANSMITTAL COVER PAGE

Original follow

DATE: Monday, June 07, 2010

Fax #: 6123362940

TO: Brian Toder, Esq.

FROM: Hammes, Gina (USAMN)

NUMBER OF PAGES (including cover): 13

CONTENTS: Letter/Attachments

If you do not receive the total number of pages indicated, please call this office at the telephone number listed above.

COMMENTS:





U.S. Department of Justice

*United States Attorney
District of Minnesota*

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Minneapolis, MN 55415
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June 7, 2010

BY FACSIMILE

Brian N. Toder, Esq.
3700 Campbell Mithun Tower
222 S. 9th Street
Minneapolis, MN 55402

Robert D. Sicoli, Esq.
8000 Flour Exchange Building
310 Fourth Ave. South
Minneapolis, MN 55415

Re: United States v. Dennis Hecker et al.
Criminal No. 10-32 (JNE/SRN)

Dear Counsel:

In a conversation with Mr. Toder last week, he inquired as to the filtering ("taint") procedure applicable to documents provided in discovery. Much of that ground is covered in prior proceedings and correspondence in this matter. However, given the appointment of Mr. Toder well after the initiation of this case, I write to outline the filtering procedure.

The documents provided to you in discovery are being provided to you without regard to privilege: that is, the government is providing documents to both defendants without withholding any potentially privileged documents.

With respect to the government's review of evidence, the government has used the search methodology for potentially-privileged documents as authorized in the Search Warrant Addendum for the search warrants executed in this case. That methodology has included the use of a taint team, comprised of an Assistant United States attorney and law enforcement agent(s) who are not part of the prosecution team. We have employed the same methodology for materials received by search warrant, by grand jury subpoena, or from witnesses in the case.

Until February 2010, for purposes of filtering, the government primarily relied upon the attached "List of Law Firms for Dennis Hecker" that was supplied by Marsh Halberg, Esq., following the

Counsel
June 1, 2010
Page 2

July 2009 search warrants. With respect to that list, after the government learned that Barbara Jerich and Erik Dove were not in fact rendering legal advice to the corporate entities, communications with those individuals (as opposed to those with outside attorneys) were not filtered.

In February 2010, Hecker Trustee Randy Seaver filed a "Notice of Waiver of Privileges" in the Dennis Hecker bankruptcy matter, No. 09-50779. In that notice, Mr. Seaver provided that as trustee he was the holder of any privilege previously held by the various Hecker corporate entities, and he further provided that he was waiving such privileges. On March 3, 2010, the government wrote to Mr. Seaver, requesting his consent to allow the government investigative and prosecutive team access to corporate communications and other documents covered by the waiver. On March 4, 2010, Mr. Seaver wrote to our Office, consenting to the government's request. (See attached "Notice of Waiver of Privileges" and correspondence of March 3 and March 4, 2010).

On March 29, 2010, we provided copies of search warrants (directed to Heatseeker Technology Partners, Inc. and Orbit Systems, Inc.) which set forth background regarding correspondence between the parties on privilege issues and Mr. Seaver's waiver of corporate privileges.

The government continues to employ the filtering process for any documents in its possession that are potentially-privileged by virtue of individual representation by counsel (past and present).

Please contact me with any questions or to discuss any of the matters set forth above.

Sincerely,

B. TODD JONES
United States Attorney



By: NANCY E. BRASEL
Assistant U.S. Attorney



U.S. Department of Justice

United States Attorney
District of Minnesota

600 United States Courthouse
300 South Fourth Street
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March 3, 2010

Via Fax and U.S. Mail

Randall L. Seaver, Esq.
United States Chapter 7 Panel Trustee
Fuller, Seaver & Ramette
12400 Portland Ave. S., Suite 132
Burnsville, MN 55337

Re: Privilege Waiver

Dear Mr. Seaver:

I am in receipt of a document that you filed in the Dennis Hecker bankruptcy matter, No. 09-50779, entitled, "Notice of Waiver of Privileges." In that document, you indicate that the debtor, Dennis Hecker, owned 99% or 100% of a number of Hecker-related entities. Given that as Trustee you now hold those ownership interests, in the notice, you stated you were waiving any attorney-client and work product privileges existing between the Hecker-related entities and a number of identified lawyers and law firms.

Given your ownership interests and privilege waiver, I am writing to request your consent to allow the government investigative and prosecutive team access to formerly privileged corporate communications and other documents, including email and, whether in hard copy or electronic form, seized during search warrants, obtained pursuant to grand jury subpoenas, or otherwise obtained by the government. Such data includes, by way of one example, corporate back-up server tapes and related records that were housed at third party providers, namely, Heatseeker Technology Partners, Inc., and Orbit Systems, Inc., each of which previously contracted with Hecker-related entities to host such data. In addition, I am writing to request your consent to allow the government access to oral communications between the Hecker-related entities and the lawyers and law firms identified in your notice.

We also are not seeking your waiver or consent with respect to any privileged communications between the Trustee and its counsel. Moreover, it is our understanding that you do not and cannot waive any individual's privilege, including any privilege of Mr. Hecker's. Thus, we do not seek a waiver of any individual

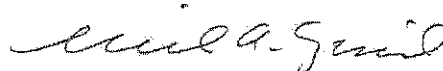
Randall L. Seaver, Esq.
March 3, 2010
Page 2

privilege, nor do we seek your consent to obtain any individually-privileged communications.

If the foregoing request meets your approval, can you kindly indicate in writing? Thank you for your consideration.

Sincerely,

B. TODD JONES
United States Attorney



BY: NICOLE A. ENGISCH
Assistant U.S. Attorney

cc: ✓ Nancy Brasel, AUSA

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

NOTICE OF WAIVER OF PRIVILEGES

Debtor

When this bankruptcy case was commenced according to the debtor, the debtor owned
99% or 100% of the following business entities:

Brainerd Imports LLC	99%
DEH Family Holdings LLC	99%
DEH Funding LLC	99%
DEH Properties, LLC	99%
Dennis Hecker Mortgage LLC	99%
Dennis Hecker Real Estate Holding Company, LLC	99%
Denny Hecker's Automotive Group, Inc.	100%
Denny Hecker's Cadillac-Pontiac-GMC, Inc.	100%
Den-Star Management, Inc.	100%
DH Capital Holdings LLC	100%
HHR of Copper Oaks, LLC	99%
Hecker Capital, LLC	99%
Hudson Auto Sales, Inc.	100%
Inver Grove Holdings, LLC	99%
Inver Grove Investments, LLC.	100%
Inver Grove Investments, Inc.	100%
Jacob Holdings of Medina LLC	100%
Jacob Motors of Pine City LLC	99%
Jacob Motors of Shakopee LLC	99%
Jacob Motors of St. Cloud LLC	99%
Jacob Properties of Aspen, LLC	99%
Lake Country Auto Center, Inc.	100%
Monticello Motors LLC	99%
Rosedale Dodge, Inc.	100%
Rosedale Leasing of Minneapolis LLC	99%
Rosedale Leasing of Minnesota LLC	99%
Southview Chevrolet Co.	100%

Stillwater Ford, Lincoln-Mercury Inc.	100%
Sydney Holdings of Eden Valley LLC	100%
Sydney Holdings of IGH LLC	99%
Walden Auto Leasing IV, Inc.	100%
Walden Fleet Group, Inc.	100%
Walden Fleet Sales Group, Inc.	100%
Walden Fleet Services II, Inc.	100%
Walden Investment Company	100%
Walden Leasing, Inc.	100%
Walden Payroll Services LLC	99%

For, and on behalf of each of the above entities, the trustee waives all attorney/client and work product privileges existing between the above entities and the following individuals and law firms:

Fredrikson & Byron, P.A.

- a. Attorney:
 - i. Clint Cutler;
 - ii. Douglas Kassebaum;
 - iii. Cynthia Moyer;
 - iv. Christopher Dolan;
 - v. Todd Wind; and
 - vi. Faye Knowles.
- b. Paralegal:
 - i. Jeannine Christensen.

Mohrman and Kaardal, P.A. and William F. Mohrman

- a. Attorney:
 - i. Bill Mohrman

Skolnick and Shiff, P.A.

- a. Attorney:
 - i. William R. Skolnick

Moss & Barnett, P.A.

- a. Attorney:
 - i. Susan Rhode

- b. Paralegal:
 - i. Mara Gollin-Garrett.

Briggs and Morgan, P.A. and Timothy R. Thornton

- a. Attorneys:
 - i. Tim Thorton;
 - ii. Molly Bort;
 - iii. Kevin Decker.
- b. Paralegals:
 - i. Paula Volk

Kaplan, Stangis and Kaplan, P.A.

- a. Attorneys:
 - i. Bruce J. Parker;
 - ii. Ralph Strangis; and
 - iii. Sam Kaplan.
- b. Paralegals:
 - i. Nancy Fredericksen; and
 - ii. Sally Swanson.

Dady & Garner:

- a. Attorneys:
 - i. J. Michael Dady; and
 - ii. John Holland.

Fafinski Mark & Johnson

- a. Attorney:
 - i. Pat Schriver.

Leonard, Street & Deinard:

- a. Attorney:
 - i. James Sticha.

Larkin Hoffman

- a. Attorneys:
 - i. Ken Corey-Edstrom;
 - ii. Kathleen Harrell-Latham; and
 - iii. Michael Fleming.

Halberg Criminal Defense

- a. Attorney:
 - i. Marsh Halberg.
- b. Paralegal:
 - i. Trista Anderson.

In-house Counsel:

- a. Possible Attorneys or Paralegals:
 - i. Marshall Fein;
 - ii. Eric Dove and
 - iii. Barbara Jerich.

Triveris, L.L.C.:

- a. Attorneys:
 - i. Konstandinos Nicklow; and
 - ii. Ken Meshbesher.

This is not a waiver of any privileges existing between the trustee and any attorney, law firm or other professionals employed by the trustee in this bankruptcy case.

Dated: February 20, 2010

/s/ Randall L. Seaver
Randall L. Seaver, Hecker Trustee

July 17, 2009
Prepared by Halberg Criminal Defense

List of Law Firms for Dennis Hecker
Attorney/Client Privileged Communications

1. Kaplan, Strangis, Kaplin

- a. Attorney(s)
 - i. Bruce Parker: bjp@kskpa.com
 - ii. Ralph Strangis: rs@kskpa.com
 - iii. Sam Kaplan: slk@kskpa.com
- b. Paralegal(s)
 - i. Nancy Fredericksen: nef@kskpa.com
 - ii. Sally Swanson: sjs@kskpa.com

2. Briggs & Morgan

- a. Attorney(s)
 - i. Tim Thorton: tthorton@briggs.com
 - ii. Molly Borg: mborg@briggs.com
 - iii. Kevin Decker: kdecke@briggs.com
- b. Paralegal(s)
 - i. Paula Volk: pvolk@briggs.com

3. Dady & Garner

- a. Attorney(s)
 - i. J. Michael Dady: jmdady@dadygarner.com
 - ii. John Holland: jholland@dadygarner.com

4. Fafinski Mark & Johnson

- a. Attorney(s)
 - i. Pat Schriver: pat.shriver@famjlaw.com

5. Leonard, Street & Deinard

- a. Attorney(s)
 - i. James Sticha: james.sticha@leonard.com

6. Fredrickson & Byron

- a. Attorney(s)
 - i. Clint Cutler: ccutler@fredlaw.com
 - ii. Douglas Kassebaum: dkassebaum@fredlaw.com
 - iii. Cynthia Moyer: cmoyer@fredlaw.com
 - iv. Christopher Dolan: cdolan@fredlaw.com
 - v. Todd Wind: twind@fredlaw.com
 - vi. Faye Knowles: fknowles@fredlaw.com
- b. Paralegal(s)
 - i. Jeannine Christensen: jchristensen@fredlaw.com

7. Larkin Hoffman

- a. Attorney(s)
 - i. Ken Corey-Edstrom: kcoreyedstrom@larkinhoffman.com
 - ii. Kathleen Harrell-Latham: klatham@larkinhoffman.com
 - iii. Michael Fleming: mfleming@larkinhoffman.com
- b. Paralegal(s)
 - i. Barbara Peppersack: bpeppersack@larkinhoffman.com

8. Halberg Criminal Defense

- a. Attorney(s)
 - i. Marsh Halberg: mhalberg@halbergdefense.com
- b. Paralegal(s)
 - i. Trista Anderson: tanderson@halbergdefense.com

9. Mohrman & Kaardal

- a. Attorney(s)
 - i. Bill Mohrman: mohrman@mklaw.com

10. Moss & Barnett

- a. Attorney(s)
 - i. Susan Rhode: Rhodes@moss-barnett.com
- b. Paralegal(s)
 - i. Mara Gollin-Garrett: gollin-garrettm@moss-barnett.com

11. In-house counsel

- a. Attorney(s)
 - i. Erik Dove: edove@dennyhecker.com
 - ii. Barbara Jerich: bajerich@msn.com
 - iii. Marshall Fein: txlawmaf@aol.com

12. Triveris L.L.C.

- a. Attorney(s)
 - i. Dan Boivin: dboivin@triveris.com

13. Meshbesh & Spence

- a. Attorney(s)
 - i. Gus Nicklow: gnicklow@meshbesh.com
 - ii. Ken Meshbesh: kmeshbesh@aol.com

14. Skolnick & Shiff

- a. Attorney(s)
 - i. Bill Skolnick: wskolnick@skolnick-shiff.com